

§ 625.16

or part of the payments received, plus interest, and liquidated damages. The State Conservationist may require only partial refund of the payments received if a previously installed practice or measure can function independently, is not affected by the violation or other practices or measures that would have been installed under the cost-share agreement, and the participant agrees to operate and maintain the installed practice or measure for the life span of the practice or measure.

(4) If NRCS terminates a 10-year cost-share agreement due to breach of contract, or the participant voluntarily terminates the 10-year cost-share agreement before any cost-share payments have been made, the participant will forfeit all rights for further payments under the 10-year cost-share agreement, and must pay such liquidated damages as are prescribed in the restoration agreement. The State Conservationist has the option to waive the liquidated damages, depending upon the circumstances of the case.

(5) When making any 10-year cost-share agreement termination decisions, the State Conservationist may reduce the amount of money owed by the participant by a proportion which reflects the good faith effort of the participant to comply with the cost-share agreement, or the hardships beyond the participant's control that have prevented compliance with the contract including natural disasters or events.

(6) The participant may voluntarily terminate a 10-year cost-share agreement, without penalty or repayment, if the State Conservationist determines that the cost-share agreement terms and conditions have been fully complied with before termination of the cost-share agreement.

§ 625.16 Payments not subject to claims.

Any cost-share or easement payment or portion thereof due any person under this part shall be allowed without regard to any claim or lien in favor of any creditor, except agencies of the United States Government.

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§ 625.17 Assignments.

Any person entitled to any cash payment under this program may assign the right to receive such cash payments, in whole or in part.

§ 625.18 Appeals.

(a) A person participating in the HFRP may obtain a review of any administrative determination concerning eligibility for participation utilizing the administrative appeal regulations provided in 7 CFR part 614.

(b) Before a person may seek judicial review of any action taken under this part, the person must exhaust all administrative appeal procedures set forth in paragraph (a) of this section, and for purposes of judicial review, no decision shall be a final agency action except a decision of the Chief under these procedures.

(c) Any appraisals, market analysis, or supporting documentation that may be used by NRCS in determining property value are considered confidential information, and shall only be disclosed as determined at the sole discretion of NRCS in accordance with applicable law.

§ 625.19 Scheme and device.

(a) If it is determined by NRCS that a person has employed a scheme or device to defeat the purposes of this part, any part of any program payment otherwise due or paid such person during the applicable period may be withheld or be required to be refunded with interest thereon, as determined appropriate by NRCS.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person of payments for cost-share practices or easements for the purpose of obtaining a payment to which a person would otherwise not be entitled.

(c) A person who succeeds to the responsibilities under this part shall report in writing to NRCS any interest of any kind in enrolled land that is held by a predecessor or any lender. A failure of full disclosure will be considered a scheme or device under this section.